

# Memorandum

To : Opinion Request Meeting Participants

Date : August 5, 1981

From : **FAIR POLITICAL PRACTICES COMMISSION**  
Judy Davis *J Davis*

*A-81-08-042*

Subject: Sections 82028, 82030(b)(4)

At the opinion request meeting August 4, the staff agreed that where a public official's campaign committee has assigned interest income on its bank account to the official with the official providing no consideration for the assignment, the interest income is reportable as:

1. a miscellaneous receipt by the committee
2. an expenditure made by the committee to the candidate
3. a gift reportable by the candidate.

JD:plh

# Memorandum

To : Opinion Request Meeting Participants

Date : July 28, 1981

91042

From : FAIR POLITICAL PRACTICES COMMISSION

Judy Davis *JD*

Subject:

Facts: Over a period of several years, a public official's campaign committee has invested surplus campaign funds by purchasing certificates of deposit through a financial institution. Simultaneously, a separate "Candidate's Interest Account" has been established at the institution. The Committee then assigns its right to receive the interest income on the certificates to the candidate, to be paid by the financial institution directly into the "Candidate's Interest Account." The candidate withdraws amounts from the interest account and uses the funds for personal purposes.

The Committee does not report the interest income under miscellaneous receipts on the grounds that it never received nor had any right after assignment to receive the income. The candidate does not disclose the interest income as a gift from his committee to him on his Statements of Economic Interests on the grounds that Section 82030(b)(4) excludes from the definition of income "interest ... on a time or demand deposit in a financial institution." He is of the opinion that even if he gave no consideration for the assignment of interest to him, the Section 82030(b)(4) exclusion applies.

Analysis: A review of the advice letter file for Sections 82028 and 82030 discloses nothing even remotely related to this issue. Common sense dictates that exclusions such as Section 82030(b)(4) - (6) are based on the assumption that the "corpus" generating the income (principal amount invested, securities, mutual fund shares) is owned by the public official. Vaguely recollected general principles of the federal law of income taxation are that one may not avoid the obligation to pay taxes on income by assigning the right to receive the income unless full consideration is received (and reported) for the assignment; if unequivocal assignment has been made without consideration, the worst occurs: one must pay tax on the income and the assigned amount is also a gift upon which gift tax must be paid if the amount is large enough.

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Question: Is the law of income taxation appropriately analogous? Is there any other legal authority which can be used to supplement a "gut feeling" that the candidate's interpretation is unsound? If the interest income is reportable, who reports it? As what? Why?

JD:kp